THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No. 7175 and 9684 of 2006

Date: 30-06-2006

W.P.No.7175 of 2006

Between:

K.E.Krishnamurthy and three others.

..... PETITIONERS

AND

The Commissioner of Proh. & Excise,
Government of A.P. Hyderabad and six others.

....RESPONDENTS

W.P.No. 9684 of 2006

Between:

E.Sury Goud and two others

..... PETITIONERS

AND

The Commissioner of Proh. & Excise,
Government of A.P. Hyderabad and three others.

....RESPONDENTS

HON'BLE Ms. JUSTICE G.ROHINI

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WRIT PETITION No. 7175 and 9684 of 2006

O R D E R:

Since these two writ petitions are interconnected, the same are heard and decided together.

W.P.No.7175 of 2006 has been filed seeking a declaration that the action of third respondent in sanctioning the TFT Additional counter licenses at Kodumuru village and Mandal, Kurnool District in favour of the respondents 5 to 7 and allowing them to transact their business is arbitrary and illegal.

The respondents 5 to 7 filed W.P.No.9684 of 2006 questioning the very same order contending *inter alia* that the same was without jurisdiction.

For the sake of convenience, the parties shall herein after be referred as they are arrayed in W.P.No.7175 of 2006.

The petitioners earlier filed W.P.No.17279 of 2005 seeking a declaration that the action of the Commissioner of Prohibition and Excise in sanctioning TFT Additional Counter licenses at Kodumuru village in favour of the respondents 5 to 7 was arbitrary and illegal. The said writ petition was disposed of by this Court by order dated 03-03-2006. The relevant portion of the said order may be extracted as under:

> *" A perusal of the impugned order dated 21-06-2005 shows that the respondents 5 to 7 were granted licenses merely on the basis of letters of a member of Legislative Assembly and a member of Parliament dated 06-02-2005. The first respondent did not record any reasons for preferring the respondents 5 to 7, but merely directed the Prohibition and Excise*

Superintendent to sanction additional counters in their favour.

The impugned order granting licenses in favour of respondents 5 to 7 is apparently not in accordance with the excise policy and the instructions issued by the Commissioner of Prohibition and Excise.

Accordingly, the impugned order dated 21-06-2005 is set aside and the respondents 1 to 3 are directed to consider the request of the petitioners as well as the request of the respondents 5 to 7 in the light of the excise policy for the year 2004-05 and pass appropriate orders afresh in accordance with law. Such exercise shall be completed as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order.

The writ petition is accordingly disposed of. No costs."

In pursuance of the said order, the third respondent passed a fresh order, which is impugned in these two writ petitions, granting TFT licenses in favour of the respondents 5 to 7 and permitting them to transact their business with immediate effect.

A mere perusal of the said order shows that it was not inconformity with the order in W.P.No.17279 of 2005. This Court while disposing of W.P.No.17279 of 2005 directed that the request of the petitioners as well as the request of the respondents 5 to 7 shall be considered in the light of the Excise Policy for the year 2004-2005 and appropriate orders shall be passed. Obviously, the third respondent failed to consider the claim of the petitioners and without making any enquiry, as directed by this Court, granted licenses in favour of the respondents 5 to 7 without assigning any reasons. The fact that the third respondent did not conduct any enquiry before granting licences has not been disputed by the respondents 5 to 7. Hence, on that ground alone the impugned order is liable to be set aside.

The learned counsel appearing for the respondents 5 to 7 also contended that the third respondent-Superintendent of Prohibition and Excise is not the competent authority to grant additional TFT licenses.

However, the learned Government Pleader submits that the third respondent is the competent authority, who has to pass appropriate order in consultation with the respondents 1 and 2.

Accordingly, the impugned order is set aside and the writ petition is disposed of with a direction to the third respondent to consider the claim made by both the petitioners as well as the respondents 5 to 7 and pass appropriate orders in accordance with law strictly in terms of the order dated 03-03-2006 in W.P.No.17279 of 2005. Such exercise shall be completed as expeditiously as possible, preferably within a period of two weeks from the date of receipt of a copy of this order. No costs.

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G.ROHINI,J

Dated:30-06-2006
KLP